

Example of research paper on the inter american system

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Origins: Transformation of the Pan American Union into the Organization of the American states (OAS).

OAS: The rights of the individual become one of the basic principles of the organization. This commitment is defined by the 1948 declaration on the rights and duties of war.

1959: OAS creates a seven member Inter-American commission of human rights among the OAS member states

1965: OAS scope expanded to accept communications, request information from governments and make recommendations for more effective protection of human rights.

Following the European standards the Inter American system has expanded its protections creating the following additional instruments: the 1985 Inter American convention to Prevent and Punish torture; the 1988 Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights; the 1990 Second Additional Protocol to the convention on Human Rights to Abolish the Death Penalty; the 1994 Inter- American Convention on the Prevention, Punishment and eradication of Violence against women; the 1994 Inter-American convention on the Forced Disappearance of persons; and the 1999 proposed American declaration of the rights of Indigenous Populations.

The African System

The protection of human rights is established by the African Charter on Human and Peoples Rights designed to function within the framework of the Organization of African Unity.

The factor that distinguishes this system from the others is the inclusion of people's rights and the greater extent of inclusion of economic, social and cultural rights. However, there is still a human rights commission similar with the American and the European ones, the African Commission on Human Rights and Peoples' Rights.

A 1998 protocol to the African chart created the court in the African system, thus adding to the regional protections. The four functions of the charter are: 1) promotion of human and peoples' rights; protection of those rights; interpretation of the Charter; and performance of other tasks entrusted by the OAU Assembly of Heads of state and government.

The Nascent Middle East system

On September 15, 1994 the League of Arab States that till then did not mention human rights at all in its founding charter, approved an Arab Charter on human rights.

The charter had first to been approved by seven states.

States have still a lot of space for individual action that derives from their unwillingness to be bound by any external body. This has slowed the process in achieving a true human rights system.

No human rights system exists in Asia despite the tries of many non-governmental organizations and of the UN.

The facts that: 1) there is far greater diversity of language, culture, legal systems, religious traditions and history, and 2) the geographic limits of region suggest that the Asian- Pacific region might be served better by a sub-regional system.

However, there are still the problems of the unwilling governments and of the many and quite often economic crises.

Universality and regional diversity

There is a mutual influence among the different systems that is producing a convergence in fundamental human rights principles. At the same time, though regional instruments also contain different guarantees and emphases. The European Convention focuses on civil rights, especially due process. The American system is strongly concerned with democracy and the rule of law having experienced repeated military coups in region. The Arab charter is deistic taking religion as its starting point while it does not omitting explicit slavery. The African Charter focuses on economic development.

Normative Evolution

All of the systems have a growing case law detailing the rights and duties enunciated in the basic instruments which has become in turn a major source of human rights law. Some decisions cross-reference specific articles of other regional and global instruments.

There is also a divergence in interpretation. One evident difference for example is found in the law concerning derogations from enunciated rights and the protection of nonderogable rights in which we can observe the particular conservatism of the European Court of Human rights as it usually supports states.

Procedural and institutional evolution

Individual complaints procedures: This is one of the greatest contributions of the regional system to the establishment of individual complaint mechanisms for judicial quasi-judicial redress of human rights violations.

Other Functions and powers: The exercise of implied powers has strengthened other functions of regional institutions especially in Africa.

Additionally, they provide the greatest openness and transparency of proceedings among the regional bodies.

One site visits: The trust and cooperation that develops in regional systems is important and reflects on the ability to make on-site visits to study the human rights situation in member states.

Institutional changes

The regional systems have in recent years undertaken major changes in their institutional structures, especially the African and the European. In the last the institutional structure has been reworked entirely. In Africa dramatic change is seen in the establishment in January 2004 of the African court on Human and Peoples' rights.

Changes in membership

Efforts of strengthening human rights protections on the regional level have succeeded in large part because of the cultural, geographic, economic and historical proximity of the states involved. For this reason changes in the membership are not always positive. An example of this is the expansion of the European system in the Central and the Eastern Europe that may challenge the entire system.

Institutional proliferation

In contrast with the other regions Europe is faced with an institutional proliferation that creates problems and possibilities for advancing human rights protections.

The Organization on Security and Cooperation in Europe (OSCE) and the European Community (EC) with their operation helped to transform the region in relation to the promotion and protection of human rights.

The result of multiple regional institutions can be both positive and negative.

Positive because the mutual influence that can be seen intra-regionally leading to greater human rights protections. Negative because multiple institutions can lead to divergent jurisprudence which is more problematic within a region than between regions because it places states in a position of conflicting obligations.

Mainstream of Human Rights: Old and New Problems

Old problems: democracy, conflict prevention, environmental protection, other human rights problems

New problems: wide disparity of economic development, civil war, terrorists and organized criminal associations.

Coordination, cooperation and competition among them might be helpful in the effort to address with the above.

Threats to Regional Systems

The regional systems suffer from expanding work and diminishing resources as their success is in part responsible for the difficulties they face.

Conclusions

The evolution in regional norms and procedures does not address the fundamental question of whether regional systems actually have had a positive impact on respect of human rights. It can be said though that the human rights law has been enhanced through the developing jurisprudence and evolution of regional human rights system. However, the interconnectedness with each other and with the global system will never keep them consistent with their goals.